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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date [REDACTED]

Surname [REDACTED]

Date: JUL 12 2000

Employer Identification Number:
[REDACTED]

Contact Person:
[REDACTED]

Contact Number:
[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion and the facts upon which it is based are set forth below.

The information submitted indicates that you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. You filed your application for recognition of exemption, Form 1023, on [REDACTED] which is more than 15 months from the end of the month in which you were organized. In your application, you state that you wish to request an extension of time to apply under the "reasonable action and good faith" and the "no-prejudice to the interest of the government" requirements of Regulations section 301.9100-3.

Your Articles of Incorporation state that you are organized to provide a forum for the exchange of ideas and information for users of Oracle Corporation products in the greater Detroit area. You state that you have filed an amendment to your Articles of Incorporation which provides that you are organized to provide a forum for the exchange of ideas and information for users of [REDACTED] technology and other similar technologies in the greater [REDACTED] area. Your bylaws state that your purpose shall be: (1) to provide a forum for the exchange of ideas and information for users of information technology in the metropolitan [REDACTED] area, (2) to work in cooperation with other user groups at a regional and national level to coordinate user events, and (3) to operate exclusively for educational and social-welfare purposes; no part of your contributions, dues, or net income shall benefit any individual, except as part of your promotional programs. Your bylaws also provide that any person interested in your activities and objectives may become a member upon attendance at any meeting.

In your application, you state that meeting attendance fees will account for 10% of your financial support, and that corporate sponsorships will account for 90% of your financial support. You state that you have no requirements for membership other than attending a meeting and paying the attendance fee for the meeting; all new meeting attendees are automatically added to your existing membership/mailling list and that no periodic dues are currently assessed. You state that members are solicited through meeting announcements, which are circulated for each meeting, through advertisements in magazines, local newspapers, and via electronic mail, and that benefits the members receive in exchange for their

payment of dues is attendance for the meeting and periodic mailings soliciting participation in subsequent meetings.

In your application, you state that you spend approximately 90% of your resources toward the planning and delivery of three General Meetings; your officers spend the majority of their available time with you on this activity, while your other members also work on various committees and teams that assist in coordinating the three General Meetings. You state that these meetings provide an opportunity for those interested in information technology to share common experiences and also learn about directions in technology, thus providing an educational value to the local information technology community or public. You state that your members, or attendees, typically consist of corporate professionals college students, and information technology vendor representatives, and that your meeting fees are calculated to provide enough funds to cover the cost of the meetings and annual operating costs of the user group.

In your letter dated [REDACTED], you make the following statement:

"(The applicant) does not have a special relationship with [REDACTED]. [REDACTED] will occasionally provide a speaker for a meeting, but never any direct or regular financial assistance to (the applicant). Since (the applicant) allows any local organization to seek participation on the board, [REDACTED] is not prohibited from representation and is treated equally, as any other vendor. Currently, one of the twelve Board Members is an employee of [REDACTED]. The [REDACTED] has not and will not sell any of the (applicant's) products or services."

In your letter dated [REDACTED], you also state that you discovered that you were required to file Form 1023 in [REDACTED] and that the delay from discovery to submission in [REDACTED] was due to the preparation process and gathering of application content; the delay from your inception in [REDACTED] to submission was due to a "gross" oversight by your board of directors, which thought you had been recognized as exempt. You state that based on the fund balances for the tax years [REDACTED] and [REDACTED], you did not meet the threshold filing requirements for Form 990, and that the submission of Form 990 for the tax year [REDACTED] (with a qualified extension) was not made until [REDACTED]. Subsequent correspondence from the Service alerted you to the fact that you had not been recognized as exempt from federal income tax.

In your letter dated [REDACTED], you state that you operate solely for the purpose of providing educational seminars and forums to the general public and users of information technology, with a primary emphasis on technology that supports and operates closely with [REDACTED] technology, and that anyone may attend any of your events. You state that your executive board meets early each year to define the current year's programs (including fund raising, advertising, and speaker coordination activities), and estimate the expense of delivering the programs to determine how much revenue you must realize to provide a modest surplus fund balance. You state that meeting fees are set and information technology companies are solicited to provide contributions to subsidize certain meeting expenses that cannot be covered by meeting attendance fees, and that [REDACTED] is one of approximately [REDACTED] vendors that you solicit for contributions. You state that you require that the meeting content to be both technical and objective, which makes them much like technical college courses, and that private interests of any vendor, including those of the [REDACTED] are strictly prohibited (those vendors that market their product during presentations that were intended to be educational are not permitted to participate in your future events).

[REDACTED]

In your letter dated [REDACTED] you further state that none of your board members are permitted to pursue private interests through their participation in you, and that any board member that abuses their board member office and related privileges to pursue private or unethical interests that are inconsistent with your mission and purpose will be immediately removed from office. You also state that all of your board members have some degree of a "relationship" with [REDACTED] primarily as users or providers of [REDACTED] technology-based professional consulting services, and also from varying interests in [REDACTED] technology as it affects their own companies' technology and products; some board members have a more significant relationship with [REDACTED] than do other board members, but these board members also have relationships with many other technology vendors as well. You state that the participation of board members in you is primarily, and genuinely, to keep abreast of [REDACTED] and related technology as it evolves, so they can better manage their own consulting careers and the efforts of their organizations - a purpose that is also reflected by your general membership.

Your program brochure for your [REDACTED] meeting shows that the presentations were on web technology, namely, [REDACTED] by the [REDACTED] [REDACTED] by the [REDACTED] [REDACTED], and [REDACTED]. Your program brochure for your [REDACTED] meeting shows that the presentations were on networking, namely, [REDACTED] [REDACTED], and [REDACTED] by the [REDACTED]. Your program brochure for your [REDACTED] meeting shows that the presentations were on [REDACTED] namely, [REDACTED] by the [REDACTED] and [REDACTED] and [REDACTED] by [REDACTED]. Your program brochure for your [REDACTED] meeting shows that the presentations included [REDACTED] by [REDACTED] by the [REDACTED] and eight other smaller sessions, three of which were concerned with and presented by the [REDACTED]. Your program brochure for your [REDACTED] meeting shows that the presentations consisted of [REDACTED] by the [REDACTED] and [REDACTED] by [REDACTED] and [REDACTED] by [REDACTED]. Your program brochure for your [REDACTED] meeting shows that the presentations consisted of [REDACTED] by [REDACTED] by [REDACTED] and [REDACTED] by the [REDACTED]. The program brochure for your [REDACTED] meeting shows that the presentations consisted of [REDACTED] by [REDACTED] for the Internet (moving forward with [REDACTED] platform technology) by the [REDACTED] and approximately ten technical presentations focusing on [REDACTED] related technologies.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau of Washington, D.C., Inc. v. U.S., 326 U.S. 279 (1945), CT. D. 1650, C.B. 1945, 375, the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes." This rationale applies equally to any category of charitable purpose under section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which

accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of any exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private purpose. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: relief of the poor and distressed or of the underprivileged, advancement of education or science, and promotion of social welfare by organizations designed to lessen neighborhood tensions or to eliminate prejudice and discrimination.

Section 1.508-1(a) of the regulations provides that an organization that is organized after October 9, 1969, will not be treated as described in section 501(c)(3) of the Code for any period before filing Form 1023, Application for Recognition of Exemption, unless the application is filed within 15 months from the end of the month in which the organization was organized.

Section 301.9100-3(a) of the regulations provides that requests for extensions of time subject to this section will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) of the regulations provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer (i) requests relief under this section before the failure to make the regulatory election is discovered by the Service, (ii) failed to make the election because of intervening events beyond the taxpayer's control, (iii) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election, (iv) reasonably relied on the written advice of the Service, or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Rev. Rul. 74-116, 1974-1 C.B. 127, holds that an organization whose membership is limited to organizations that own, rent, or use a specific type of computer and whose activities are designed to keep members informed of current scientific and technical data of special interest to them as users of the computer is not exempt under section 501(c)(3) of the Code. The revenue ruling states that by making specialized information available to its members under the circumstances, the organization is serving the private interest of its members rather than a public interest.

Rev. Rul. 74-614, 1974-2 C.B. 164, describes an organization whose purposes and activities are to devise, operate, and provide the organizational structure for a regional computer network to enable member educational institutions, including faculties and students, to benefit from research and scientific

[REDACTED]

information developed by other member institutions and the federal government. The revenue ruling holds that by providing a coordinated program which enables the member institutions, including faculty and students, to benefit from the research and scientific projects developed by the various institutions and the organizations, the organization is advancing education.

The information you have submitted fails to establish that you are described in section 501(c)(3) of the Code. From the facts you have presented, it is clear that your primary activity is the provision of a forum for the exchange of ideas and information for users of [REDACTED] products. Although you state that you have no special relationship with the [REDACTED], it is also clear that your programs and activities, by the very nature of your Articles of Incorporation, bylaws, and program presentations, which deal, to a substantial respect, with [REDACTED] products, are geared toward a particular computer organization, [REDACTED]. Every program you present either has [REDACTED] and its products as a primary subject or has a presenter from the [REDACTED]. All your Board members have some degree of "relationship" with [REDACTED]. Your advertisements are directed toward persons who wish to understand [REDACTED] products rather than computers in general. Thus, in the same manner as the organization denied exemption under section 501(c)(3) in Rev. Rul. 74-116, *supra*, you are serving the private interests of your members, who presumably are interested primarily, if not solely, in [REDACTED] products even though your attendees are not limited solely to owners, renters, or users of [REDACTED] products. Such activities were determined to be serving the private interests of members and precluding exemption under section 1.501(c)(3)-1(d)(1)(ii) of the regulations. The facts that your board members are precluded from pursuing their "private interests" (presumably having to do with the [REDACTED]), and that all presenters are asked not to market their product or face non-participation in the future, does not change the fact that your board members all have a "relationship" with [REDACTED], including one who is employed by [REDACTED] and that the presentations are primarily about the [REDACTED] and its products. Your activities are designed primarily to keep your members informed of current scientific and technical data of special interest to them as users of [REDACTED] products. Therefore, since the presentations are a substantial part of your purposes and activities, you cannot be recognized as exempt under section 501(c)(3) as construed by the court in *Better Business Bureau of Washington, D.C., Inc. v. U.S.*, *supra*, because a substantial part of your operations is not in furtherance of exempt purposes under section 501(c)(3).

You are not similar to the exempt organization described in Rev. Rul. 74-614, *supra*, because you are not providing a regional computer network, either for educational organizations or for your members, but rather an understanding of the technology of only one computer organization, [REDACTED].

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax as an organization described either in section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns on Form 1120.

Further, even in the event that you could be recognized as exempt under section 501(c)(3) of the Code, you would not be granted an exception from the filing requirement under section 301.9100-3 of the regulations because you are not considered to have acted reasonably and in good faith. None of the criteria listed in section 301.9100-3(b)(1) are applicable to you.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want

[REDACTED]

one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) Customer Service office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 377-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate state officials will be notified of this action in accordance with section 6104(c) of the Code.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:2, Room 6539
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) Garland A. Carter
Garland A. Carter
Chief, Exempt Organizations
Technical Group 2

[REDACTED] [REDACTED]